

REMARKS

Reconsideration of the application is requested in view of the modifications above and the remarks below.

1. Rejection Under 35 USC 112

The Office Action rejected Claims 1-10 under 35 USC 112, second paragraph, for the term "C1-C18-(meth)acrylic acid ester." In view of the modifications above, the rejection is believed overcome. Reconsideration is requested.

2. Rejection Under 35 USC 102

The Office Action rejected Claims 1-10 under 35 USC 102(b) over DE 2454397. The rejection should be withdrawn.

It is well settled that in order for a prior art reference to anticipate claim, the reference must disclose each and every element of claim with sufficient clarity to prove its existence in prior art. The disclosure requirement under 35 USC 102 presupposes knowledge of one skilled in art of claimed invention, but such presumed knowledge does not grant license to read into prior art reference teachings that are not there. *See Motorola Inc. v. Interdigital Technology Corp.* 43 USPQ2d 1481 (1997 CAFC).

Applicants' invention relates to a cationic finely divided aqueous polymer dispersion comprising an emulsion polymerization product of (1) a monomer mixture comprising a) from about 20 to about 60% by weight of at least one optionally substituted styrene, b) from about 40 to about 80% by weight of at least one C₁-C₁₈-(meth)acrylic acid ester and c) from 0 to about 20% by weight of at least one non-ionic ethylenically unsaturated monomer differing from a) and b), the sum of a) + b) + c) being 100% by weight, and (2) an emulsifier comprising a solution polymerization product of (i) a saturated C₁-C₆-carboxylic acid, and (ii) a monomer mixture comprising d) from about 15 to about 35% by weight of at least one (meth)acrylic acid ester and/or (meth)acrylamide which contains a tertiary amino group, e) from about 65 to about 85% by weight of at least one optionally

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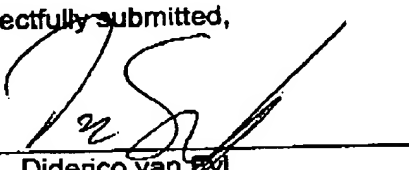
substituted styrene and f) from 0 to about 20% by weight of at least one non-ionic or cationic thienically unsaturated monomer differing from d) and e), the sum of d) + e) + f) being 100% by weight, such that the C₁-C₆-carboxylic acid is a mono-carboxylic acid.

DE 2454397 discloses the preparation of the emulsifier (for the emulsion polymerisation) on the basis of styrene and a vinylic monomer having a quaternary nitrogen atom is done in an organic solvent, whereby explicitly C₁ to C₅ alkanols and acetone are disclosed. (see page 17, line 13-14 and exp.). No water containing solvents of carboxylic acids are disclosed. In other words, DE 2454397 does not disclose each and every element of Claims 1-10 with sufficient clarity to prove that Applicants' invention existed in the prior art. Reconsideration is requested.

In view of the foregoing amendments and remarks, allowance of Claims 1-10 is earnestly requested.

Respectfully submitted,

By


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